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PART IV.

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PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 15, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th January, 1887, and is hereby promulgated for general information:—

ACT NO. I OF 1887.

An Act for further shortening the language used in Acts of the Governor General in Council, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Acts made by the Governor General in Council, and to make certain further provisions relating to those Acts and to Regulations under the Statute 33 Victoria, chapter 3, section 1; It is hereby enacted as follows:—

1. (1) This Act may be called the General Clauses Act, 1887; and
Title and commencement.

(2) It shall come into force at once.

PART I.

ADDITIONAL CLAUSES.

2. This Part shall apply to this Act and to all Acts made by the Governor General in Council under the Indian Councils Act, 1861, after the passing of this Act.
Application of this Part.

3. In any Act to which this Part applies, unless here is something repugnant in the subject or context,—
Definition.

(1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code:

(2) "Chapter", "Part" and "schedule" shall denote, respectively, a Chapter and Part of, and schedule to, the Act in which the word occurs:

(3) "sub-section" shall denote a sub-section of the section in which the word occurs:

(4) "commencement", used with reference to an Act, shall mean the day on which the Act comes into force:

(5) "financial year" shall mean the year commencing on the first day of April:

(6) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(7) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars:

(8) "master", used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship:

(9) "offence" shall mean any act or omission made punishable by any law for the time being in force:

(10) "public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code:

(11) "registered" shall mean registered under the law for the time being in force for the registration of documents:

(12) "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions:

(13) "value", used with reference to a suit, shall mean the amount or value of the subject-matter of the suit: and

(14) "write", with its grammatical variations and cognate expressions, shall include "print" and "lithograph", with their grammatical variations and cognate expressions.

4. Where, by an Act to which this Part applies and which is not to come into force immediately on the passing thereof, a power is conferred on the Governor General in Council or on a Local Government or a High Court to make rules, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, the power may be exercised at any time after the passing of the Act, but rules or orders so made or issued shall not take effect till the commencement of the Act.

5. Any power conferred on the Governor General in Council or on a Local Government by an Act to which this Part applies may be exercised from time to time as occasion requires.

6. Where, by an Act to which this Part applies, a power to make rules is expressed to be given subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely:—

(1) The authority having power to make the rules shall, before making them, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Governor General in Council or the Local Government prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority having power to make the rules, and, where the rules are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules from any person with respect to the draft before the date so specified.

(5) The publication in an official Gazette of a rule purporting to have been made in exercise of a power to make rules after previous publication shall be conclusive proof that the rule has been duly made.

7. (1) Where a limited time from any date or from the happening of any event is appointed or allowed, by an Act to which this Part applies, for the doing of any act or the taking of any proceeding in a Court or office, and the last day of the limited time is a day on which the Court or office is closed, then the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(2) Where, by an Act to which this Part applies, any act or proceeding is directed or allowed to be done or taken in a Court or office on a certain day, then, if the Court or office is closed on that day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(3) This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

8. Where an act or omission constitutes an offence under two or more enactments of which either or any is an Act to which this Part applies, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

PART II.

SUPPLEMENTAL PROVISIONS.

9. The words "wholly or partially" shall be inserted before the words "repealed" in clause (1) of section 3 of the General Clauses Act, 1868, and shall be deemed to have been there from the commencement of that Act.

10. The provisions of this Act and of the General Clauses Act, 1868, shall, so far as they can be made applicable, apply to all Regulations which may receive the assent of the Governor General under the Statute 33 Victoria, chapter 3, section 1, after the commencement of this Act.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill for further shortening the language used in Acts of the Governor-General in Council, and for other purposes, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill for further shortening the language used in Acts of the Governor-General in Council, and for other purposes, was referred, have now the honour to submit this our Report.

From Secretary to Chief Commissioner, Assam, No. 2153, dated 7th October, 1886 [Paper No. 1].

From Secretary to Chief Commissioner, Coorg, No. 1904—3946, dated 22nd October, 1886 [Paper No. 2].

From Chief Commissioner, Ajmere-Merwara, No. 1242—690-II, dated 29th October, 1886 [Paper No. 3].

From Chief Secretary to Government, Madras, No. 2936, dated 30th October, 1886, and enclosures [Papers No. 4].

From Under Secretary to Chief Commissioner, Central Provinces, No. 5127—303, dated 11th November, 1886 [Paper No. 5].

From Secretary to Government, North-Western Provinces and Oudh, No. 867—VII-347, dated 16th November, 1886, and enclosures [Papers No. 6].

From Secretary for Berar to Resident, Hyderabad, No. 428G., dated 17th November, 1886 [Paper No. 7].

From Chief Secretary to Government, Bengal, No. 3519J., dated 1st December, 1886, and enclosures [Papers No. 8].

From Secretary to Chief Commissioner, Burma, No. 79—28L., dated 3rd December, 1886 [Paper No. 9].

From Registrar, High Court, Calcutta, No. 2734, dated 8th December, 1886 [Paper No. 10].

From Acting Under Secretary to Government, Bombay, No. 7190, dated 10th December, 1886, and enclosures [Papers No. 11].

2. We have removed the definition of "soldier" from section 3 of the Bill and struck out section 10 which was consequential on that definition. It appears to us that the substance of the definition and section will be more appropriately inserted in the Cantonments Bill, which is now under the consideration of the Government, than in this Bill, which is to be of general application.

3. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	4th, 11th and 18th September, 1886.
Fort Saint George Gazette	24th September, 1886.
Bombay Government Gazette	9th September, 1886.
Calcutta Gazette	15th, 22nd and 29th September, 1886.
North-Western Provinces and Oudh Government Gazette	11th, 18th and 25th September, 1886.
Punjab Government Gazette	9th, 16th and 23rd September, 1886.
Central Provinces Gazette	11th, 18th and 25th September, 1886.
Burma Gazette	25th September, and 2nd and 9th October, 1886.
Assam Gazette	25th September, and 2nd and 9th October, 1886.
Coorg District Gazette	1st October, 1886.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	9th December, 1886.
	Gujaráthi	2nd December, 1886.
	Kanarese	18th November, 1886.
Burma	Burmese	4th, 11th and 18th December, 1886.

4. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.

J. B. PEILE.

W. W. HUNTER.

The 4th January, 1887.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

IV a 1

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th January, 1887, and is hereby promulgated for general information :—

ACT NO. II OF 1887.

An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882 ;

It is hereby enacted as follows :—

Sea Customs Act, 1878.

1. (1) In clause (b) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted after the word "unless" the word "either", and after the word "destination" the following, namely :—

"or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port".

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word "paid", namely :—

"so paid or the spirit so delivered."

2. In section 146 of the same Act, for the word "shall" in each of the two places where that word occurs, the word "may" shall be substituted.

3. (1) To section 148 of the same Act the following words shall be prefixed, namely :—

"Notwithstanding anything in the Indian Tariff Act, 1882,".

(2) To the same section of the same Act the following shall be added, namely :—

"Provided that the Local Government may authorise the import of such spirit without the

payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise-duty thereon is to be paid on the removal of the spirit from a warehouse so appointed."

4. (1) To section 151 of the same Act the Amendment of sec. following words shall be prefixed, namely :—

"Notwithstanding anything in the Indian Tariff Act, 1882,".

XI of 1882.

(2) After the same section of the same Act the following shall be added, namely :—

"Provided that the Local Government may authorise the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed."

Excise Act, 1881.

5. For section 23 of the Excise Act, 1881, the following shall be substituted, namely :—

23. (1) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

(a) if the Local Government has fixed a duty under clause (a) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

(b) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor

also, with this modification that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882.

XI of 1882.

"(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final."

6. (1) In clause (c) of section 36 of the same Act the words "or fermented liquor" shall be inserted after the words "any spirit".

(2) In the last paragraph of the same section of the same Act the words "or fermented liquor" shall be inserted between the words "the spirit" and the words "together with".

Indian Tariff Act, 1882.

XI of 1882.

7. In the preamble to the Indian Tariff Act, 1882, the words "and for fixing a maximum duty of excise on spirit manufactured in British India" are repealed.

8. To section 7 of the same Act the following Addition to section 7. shall be added, namely:—

"Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, 1878.

VIII of 1878.

9. In No. 2 of the Second Schedule to the Amendment of Sec. same Act—

(a) "Rs. 5" shall be substituted for "Rs. 4" in the fifth column as the rate of duty to be levied and collected per Imperial Gallon or six quart bottles of "Liqueurs"; and

(b) for the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 4, and the duty to be increased in proportion as the strength of the spirit exceeds London proof.
	Spirit, perfumed, in wood, or in bottles containing more than four ounces.	Ditto	...	
	Spirit, other sorts.	Ditto	...	

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Impl. Gallon or six quart bottles.	...	
	Spirit, other sorts.	Impl. Gallon or six quart bottles of the strength of London proof.	...	

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 14th January, 1887, and is hereby promulgated for general information :—

ACT NO. III OF 1887.

An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences

against the public revenue; It is hereby enacted as follows :—

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, 1 of 1872, namely :—

"125. No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

Explanation.—'Revenue-officer' in this section means any officer employed in or about the business of any branch of the public revenue."

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Indian Evidence Act, 1872, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887 :—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which

From Mr. Venkatrao Ramaji Gutikar, Pleader, District Court, Belgaum [Paper No. 1].
From Registrar, High Court, Calcutta, No. 2209, dated 14th September, 1886 [Paper No. 2].
From Secretary to Chief Commissioner, Assam, No. 2043, dated 25th September, 1886 [Paper No. 3].
From Chief Secretary to Government, Madras, No. 2526, dated 22nd September, 1886, and enclosures [Papers No. 4].
From Secretary for Berar to Resident, Hyderabad, No. 373 G., dated 13th October, 1886 [Paper No. 5].
From Chief Commissioner, Ajmere-Merwara, No. 1220—690-IV, dated 22nd October, 1886 [Paper No. 6].
From Secretary to Chief Commissioner, Coorg, No. 1902—3716, dated 22nd October, 1886 [Paper No. 7].
Endorsement by Acting Chief Secretary to Government, Madras, No. 2891, dated 26th October, 1886, and enclosures [Papers No. 8].
From Chief Secretary to Government, Bengal, No. 1987 J. D., dated 1st November, 1886 [Paper No. 9].
From Secretary to Government, Punjab, No. 1057, dated 5th November, 1886, and enclosures [Papers No. 10].
From Acting Under Secretary to Government, Bombay, No. 6285, dated 2nd November, 1886, and enclosures [Papers No. 11].
From Under Secretary to Chief Commissioner, Central Provinces, No. 5080—291, dated 5th November, 1886 [Paper No. 12].
From Under Secretary to Government, North-Western Provinces and Oudh, No. 866—VII-341, dated 13th November, 1886 [Paper No. 13].
From Secretary to Chief Commissioner, Burma, No. 565—25 L., dated 17th November, 1886, and enclosure [Papers No. 14].

amble; and, following the plan of the Act, we have made the definition of "Revenue-officer" an *explanation* to the section instead of a sub-section thereof.

the Bill to amend the Indian Evidence Act, 1872, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. We have so altered the section which it was proposed by the Bill as introduced to substitute for section 125 of the Indian Evidence Act, 1872, as to limit its operation to the purpose stated in the preamble of "Revenue-officer."

3. The publication ordered by the Council has been made as follows :—

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
Gazette of India		14th, 21st and 28th August, 1886.
Fort Saint George Gazette		3rd September, 1886.
Bombay Government Gazette		19th August, 1886.
Calcutta Gazette		25th August, and 1st and 8th September, 1886.
North Western Provinces and Oudh Government Gazette		21st and 28th August, and 4th September, 1886.
Punjab Government Gazette		19th and 26th August, and 2nd September, 1886.
Central Provinces Gazette		21st and 28th August, and 4th September, 1886.
Burma Gazette		4th, 11th and 18th September, 1886.
Assam Gazette		4th, 11th and 18th September, 1886.
Coorg District Gazette		1st October, 1886.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	16th September, 1886.
	Gujaráthi	23rd September, 1886.
	Kanarese	30th September, 1886.
Bengal	Bengali	21st and 28th September, and 5th October, 1886.
	Hindi	28th September, and 5th and 12th October, 1886.
	Uriya	30th September, and 7th and 14th October, 1886.
North-Western Provinces and Oudh	Urdu	11th, 18th and 25th September, 1886.
Burma	Burmese	25th September, and 2nd and 9th October, 1886.
Assam	Bengali	2nd October, 1886.

4. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

The 4th January, 1887.

ANDREW R. SCOBLE.

J. B. PEILE.

W. S. WHITESIDE.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 14th January, 1887, and is hereby promulgated for general information:—

ACT NO. IV OF 1887.

An Act to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body.

WHEREAS it is expedient to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to amend the law relating to the powers of the said Trustees; It is hereby enacted as follows:—

Title and commencement. 1. (1) This Act may be called the Indian Museum Act, 1887; and

(2) It shall come into force at once.

Repeal of certain sections of Act XXII of 1876. 2. Sections 3, 4 and 5 of the Indian Museum Act, 1876, are repealed.

Substitution of new sections for sections repealed. 3. For those sections the following shall be substituted, namely:—

“Incorporation of the Trustees.

Constitution and incorporation of the Trustees of the Indian Museum. 3. The Trustees of the said Indian Museum shall be—

- (a) the person for the time being holding the office of Accountant General of Bengal;
- (b) five other persons to be appointed by the Governor General in Council;
- (c) five other persons to be appointed by the Lieutenant-Governor of Bengal;
- (d) five other persons to be appointed by the Council of the Asiatic Society of Bengal; and
- (e) five other persons to be appointed by the Trustees;

and the said Trustees shall be a body corporate, by the name of the Trustees of the Indian Museum, and shall have perpetual succession and a common seal.

4. All the powers of the said body corporate may be exercised so long and so often as there are nine members thereof.

5. If a trustee appointed under section 3 dies, or is absent from the meetings of the Trustees for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, or becomes Accountant General of Bengal, then the authority which appointed the trustee may appoint a new trustee in his place.

4. (1) For the purposes of the Indian Museum Act, 1876, as amended by Act XXII of 1876, this Act—

(a) the persons nominated by the Governor General in Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Governor General in Council under section 3 of that Act as amended by this Act;

(b) the President of the Asiatic Society of Bengal, and the other members of the Council of that Society nominated by that Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Council of the Asiatic Society of Bengal under the said section; and

(c) the persons elected and appointed by the Trustees under the said Act, and now holding office as Trustees, shall be deemed to have been appointed by the Trustees under the said section.

(2) The Secretary to the Government of India and the Superintendent of the Geological Survey of India shall cease to be *ex officio* members of the said body corporate.

Power to Trustees to keep collections not belonging to them. 5. Notwithstanding anything in the Indian Museum Act, 1876,—

(a) the Trustees of the Indian Museum, if they think fit, may, with the previous sanction of the Governor General in Council, and subject in each case to such conditions as he may approve and to such rules as he may prescribe, assume the custody and administration of collections which are not the property of the Trustees for the pur-

XXII of 1876.

poses of their trusts in that Act mentioned, and keep and preserve the collections either in the Indian Museum or elsewhere; and

- (b) in the event of the trust constituted by that Act being determined, collections of which the Trustees have assumed the custody and administration under the foregoing part of this section shall not by reason of their then being in the Indian Museum become the property of the Government of India.

And whereas it is provided in the Indian Museum Act, 1876, that the Trustees of the Indian Museum shall have the exclusive possession, occupation and control, for the purposes of their trusts in that Act mentioned, of the whole of the building called the Indian Museum, except certain portions thereof set apart for other purposes; and whereas the Trustees are by virtue of that provision in possession of the property described in the schedule to this Act; It is hereby enacted as follows:—

6. The Trustees may, with the previous sanction of the Governor General in Council, and subject to such conditions as he may approve, deliver possession of the whole or any part of that property to such person as the Lieutenant-Governor of Bengal may appoint in that behalf.

THE SCHEDULE

Land bounded on the north by a straight line drawn between the east and the west boundaries parallel to the main south wall of the Museum at a distance of twenty-five feet from the said wall; on the west and south-west by the Chowringhee Road and the walls of the premises known as No. 29, Chowringhee Road; on the south by Kyd Street; and on the east by the walls of the premises known as No. 15, Kyd Street, and No. 4, Chowringhee Lane; measuring in all four acres, three roods and sixteen perches; together with all buildings, roads and tanks existing or erected thereon, and all easements appertaining thereto.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. We have at the instance of the Trustees of the Indian Museum and the Government of Bengal provided that, if a trustee absents himself from the meetings of the Trustees for more than twelve consecutive months, the authority which appointed him may appoint a new trustee in his place.

3. In section 6 of the Bill we have inserted words providing for the contingency of a part only of the scheduled property being required by the Bengal Government.

4. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	12th, 19th and 26th June, 1886.
Calcutta Gazette	7th July, 1886.

In the Vernacular.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bengal	Bengali	27th July, and 3rd and 10th August, 1886.

5. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

J. B. PEILE.

A. COLVIN.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The 4th January, 1887.



The Gazette of India.

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CALCUTTA, SATURDAY, JANUARY 29, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th January, 1887, and is hereby promulgated for general information:—

ACT NO. V OF 1887.

An Act to amend the Code of Criminal Procedure, 1882.

X of 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

1. In the definition of "Officer in charge of a Police-station" in section 4, clause (e), of the said Code there shall be substituted for the word "therefrom" the words "from the station-house", and for the words "present at the Police-station" the words "present at the station-house".

2. In section 312 of the said Code the word "four" shall be substituted for the word "two".

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th February, 1887, and is hereby promulgated for general information:—

ACT NO. VI OF 1887.

An Act to amend the Indian Companies Act, 1882.

• WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows:—

I. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely:—

"200A. (1) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—

"(a) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the company at the date of the commence-

ment of the winding-up, and having become due and payable within the twelve months next before that date;

"(b) all wages or salary of any clerk or servant in respect of services rendered to the company within the two months next before the commencement of the winding-up, not exceeding one thousand rupees for each clerk or servant; and

"(c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the commencement of the winding-up.

"(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

"(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator."

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Indian Companies Act, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887 :—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend

the Indian Companies Act, 1882, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, Assam, No. 1657, dated 14th August, 1886 [Paper No. 1].
 From Registrar, High Court, Calcutta, No. 2097, dated 25th August, 1886 [Paper No. 2].
 From Secretary for Berar to Resident, Hyderabad, No. 290 G., dated 25th August, 1886 [Paper No. 3].
 From Under Secretary to Chief Commissioner, Central Provinces, No. 3980—233, dated 31st August, 1886 [Paper No. 4].
 From Secretary to Chief Commissioner, Burma, No. 810—22 L., dated 31st August, 1886 [Paper No. 5].
 From Chief Commissioner, Ajmere-Merwara, No. 1055—690-II, dated 14th September, 1886 [Paper No. 6].
 From Secretary to Chief Commissioner, Coorg, No. 1670—3256, dated 14th September, 1886 [Paper No. 7].
 From Chief Secretary to Government, Madras, No. 2546, dated 23rd September, 1886, and enclosures [Papers No. 8].
 From Secretary to Government, North-Western Provinces and Oudh, No. 767—VII—328-10, dated 2nd October, 1886 [Paper No. 9].
 From Acting Under Secretary to Government, Bombay, No. 5813, dated 11th October, 1886, and enclosures [Papers No. 10].
 Endorsement by Acting Chief Secretary to Government, Madras, No. 2863, dated 23rd October, 1886, and enclosures [Papers No. 11].
 From Chief Secretary to Government, Bengal, No. 3322 J., dated 19th November, 1886, and enclosures [Papers No. 12].

terms to fiscal debts due from a bankrupt to the Crown, we deem it desirable to give priority in similar terms to like debts due to the Crown from a Company which is being wound up. This saving may not be absolutely necessary in the case of debts due to the Crown (L. R. 9 Ch. D. 469 and 5 Bom. H. C. R. 23); but it is proposed, as in the Bankruptcy Bill, to give to rates and taxes payable to local authorities the same priority as to Crown debts, and in the case of some at least of those rates and taxes an express declaration of their priority will be necessary.

3. The salaries of clerks and servants being paid monthly in this country, we consider it will be sufficient to give priority to those salaries for the same time, namely, two months, as priority is given to wages of labourers and workmen by the Companies Act, 1883 (46 & 47 Vic., c. 28). But we agree with the Bengal Chamber of Commerce, the Calcutta Trades Association and other authorities that in this country it is proper to give priority to the salary of a clerk or servant for a larger sum than in England, and we have proposed to raise to Rs. 1,000 the limit up to which the salary of a clerk or servant is to have priority.

As regards the priority to be given to the wages of labourers and workmen, we propose to follow the Companies Act, 1883, in limiting it to wages in respect of services rendered during the two months before the commencement of the winding up.

4. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	7th, 14th and 31st July, 1886.
Fort Saint George Gazette	6th August, 1886.
Bombay Government Gazette	22nd July, 1886.
Calcutta Gazette	28th July, and 4th and 11th August, 1886.
North-Western Provinces and Oudh Government Gazette	24th and 31st July, and 7th August, 1886.
Punjab Government Gazette	22nd and 29th July, and 5th August, 1886.
Central Provinces Gazette	24th and 31st July, and 7th August, 1886.
Burma Gazette	7th, 14th and 21st August, 1886.
Assam Gazette	7th, 14th and 28th August, 1886.
Coorg District Gazette	1st September, 1886.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	19th August, 1886.
	Gujaráthi	19th August, 1886.
	Bengali	24th and 31st August, 1886.
	Hindi	2nd, 14th, 21st and 28th September, 1886.
Bengal	Uriya	2nd, 14th, 21st and 28th September, 1886.
	Urdu	21st and 28th August, and 4th September, 1886.
North-Western Provinces and Oudh	Urdu	21st and 28th August, and 4th September, 1886.
Central Provinces	Maráthi	1st, 8th and 15th September, 1886.
Burma	Burmese	4th, 11th and 18th September, 1886.

5. We are of opinion that the Bill should be re-published, and that it should not be further proceeded with till the expiration of one month from the date of the presentation of this Report.

ANDREW R. SCOBLE.

J. B. PEILE.

W. W. HUNTER.

The 7th January, 1887.

S. HARVEY JAMES,

Offo. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India, in Council received the assent of His Excellency the Governor General on the 11th February, 1887, and is hereby promulgated for general information :—

ACT NO. VII OF 1887.

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows :—

1. This Act may be called
Title. the Suits Valuation Act,
1887.

PART I.

SUITS RELATING TO LAND.

2. This Part shall extend to such local areas,
Extent and com- and come into force there-
mencement of Part I. in on such dates, as the
Governor General in Council, by notification in
the Gazette of India, directs.

3. (1) The Local Government may, with the
previous sanction of the
Governor General in Coun-
cil, make rules for deter-
mining the value of land for
purposes of jurisdiction in
the suits mentioned in the Court-fees Act, 1870,
section 7, paragraphs v and vi, and para-
graph x, clause (d).

(2) The rules may determine the value of any
class of land, or of any interest in land, in the
whole or any part of a local area, and may
prescribe different values for different places
within the same local area.

4. Where a suit mentioned in the Court-fees
Act, 1870, section 7, para-
graph iv, or Schedule II,
article 17, relates to land or
an interest in land of which
the value has been deter-
mined by rules under the last foregoing section,
the amount at which for purposes of jurisdiction
the relief sought in the suit is valued shall not
exceed the value of the land or interest as de-
termined by those rules.

5. (1) The Local Government shall, before
making rules under section
3, consult the High Court
with respect thereto.

(2) A rule under that section shall not take
effect till the expiration of one month after
the rule has been published in the local official
Gazette.

6. On and from the date on which rules under
section 3 take effect in any
part of the territories under
the administration of the
Governor of Fort Saint George in Council to
which the Madras Civil Courts Act, 1873, ex-
tends, section 14 of that Act shall be repealed
as regards that part of those territories.

PART II.

OTHER SUITS.

7. This Part extends to the whole of British
India, and shall come into
force on the first day of
July, 1887.

8. Where in suits other than those referred to
in the Court-fees Act, 1870,
section 7, paragraphs v, vi
and ix, and paragraph x,
clause (d), court-fees are
payable *ad valorem* under the Court-fees Act,
1870, the value as determinable for the com-
putation of court-fees and the value for purposes
of jurisdiction shall be the same.

9. When the subject-matter of suits of any
class, other than suits men-
tioned in the Court-fees
Act, 1870, section 7, para-
graphs v and vi, and paragraph x, clause (d), is
such that in the opinion of the High Court it
does not admit of being satisfactorily valued, the
High Court may, with the previous sanction of
the Local Government, direct that suits of that
class shall, for the purposes of the Court-fees
Act, 1870, and of this Act and any other enact-
ment for the time being in force, be treated as if
their subject-matter were of such value as the
High Court thinks fit to specify in this behalf.

10. Section 32 of the Punjab Courts Act,
1884, is hereby repealed.

PART III.

SUPPLEMENTAL PROVISIONS.

11. (1) Notwithstanding anything in section
578 of the Code of Civil
Procedure, an objection
that by reason of the over-
valuation or under-valua-
tion of a suit or appeal a
Court of first instance or lower appellate Court
which had not jurisdiction with respect to the

suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

- (a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or
 - (b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.
- (2) If the objection was taken in the manner mentioned in clause (a) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (b) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.
- (3) If the objection was taken in that manner and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with

respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(4) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 622 of the Code of Civil Procedure or other enactment for the time being in force.

(5) This section extends to the whole of British India, and shall come into force on the first day of July, 1887.

12. Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—
Proceedings pending at commencement of Part I or Part II.

- (a) with respect to any suit instituted before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or
- (b) with respect to any appeal arising out of any such suit.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th January, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. We have divided the Bill into three Parts, of which Part I deals with suits relating to land and Part II with other suits, Part III containing supplemental provisions.

Part I is to be brought into force by notification of the Governor General in Council, and it is proposed that Part II and the material portion of Part III come into force on the first day of July next.

3. We have excepted from the operation of section 8 (section 4 of the Bill as introduced) the suits to which paragraph ix of section 7 of the Court-fees Act relates. In a suit for foreclosure or sale the principal and interest due under the mortgage-deed represent the value of the suit for purposes of jurisdiction, while the value for the computation of court-fees is the principal only.

4. We have added to the Bill a section in the terms of section 32 of the Punjab Courts Act, 1884, and have proposed to repeal that section of that Act.

5. We have so amended section 11 (section 5 of the Bill as introduced) as to give the appellate Court a discretion as to proceeding with an appeal in a suit which was insti-

From Officiating Secretary to Chief Commissioner, Assam, No. 2113, dated 2nd October, 1886 [Paper No. 1].
From Secretary to Chief Commissioner, Coorg, No. 1901—3726, dated 22nd October, 1886 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwara, No. 1237—690—II, dated 28th October, 1886 [Paper No. 3].
From Chief Secretary to Government, Madras, No. 2878, dated 25th October, 1886, and enclosures [Papers No. 4].
From Under Secretary to Chief Commissioner, Central Provinces, No. 5147—303, dated 13th November, 1886, and enclosures [Papers No. 5].
From Secretary to Chief Commissioner, Burma, No. 350—26 L., dated 12th November, 1886, and enclosures [Papers No. 6].
From Secretary to Government, North-Western Provinces and Oudh, No. 883—VII-343, dated 20th November, 1886, and enclosures [Papers No. 7].
From Secretary for Berar to Resident, Hyderabad, No. 429 G., dated 17th November, 1886, and enclosures [Papers No. 8].
From Acting Under Secretary to Government, Bombay, No. 6807, dated 23rd November, 1886, and enclosures [Papers No. 9].
From Chief Secretary to Government, Bengal, No. 3626 J., dated 7th December, 1886, and enclosures [Papers No. 10].
From Secretary to Government, Punjab, No. 1259, dated 20th December, 1886, and enclosures [Papers No. 11].
From Registrar, High Court, Calcutta, No. 18, dated 5th January, 1887 [Paper No. 12].

tuted in a Court without jurisdiction as regards the value, and we have made the provisions of the section applicable to an appellate Court apply also to a Court exercising revisional jurisdiction.

6. The publication ordered by the Council has been made as follows :—

<i>In English.</i>	
<i>Gazette.</i>	<i>Date.</i>
Gazette of India	14th, 21st and 28th August, 1886.
Fort Saint George Gazette	3rd September, 1886.
Bombay Government Gazette	19th August, 1886.
Calcutta Gazette	25th August, and 1st and 8th September, 1886.
North-Western Provinces and Oudh Government Gazette	21st and 28th August, and 4th September, 1886.
Punjab Government Gazette	19th and 26th August, and 2nd September, 1886.
Central Provinces Gazette	21st and 28th August, and 4th September, 1886.
Burma Gazette	4th, 11th and 18th September, 1886.
Assam Gazette	28th August, and 11th and 18th September, 1886.
Coorg District Gazette	1st October, 1886.

<i>In the Vernaculars.</i>		
<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	30th September, 1886.
	Gujaráthi	14th October, 1886.
	Kanarese	30th September, 1886.
Bengal	Bengali	5th and 12th October, 1886.
	Hindi	21st and 28th September, and 5th October, 1886.
North-Western Provinces and Oudh	Uriya	21st October, 1886.
	Urdu	27th November, and 4th and 11th December, 1886.
Burma	Burmese	13th, 20th and 27th November, 1886.
Assam	Bengali	16th October, 1886.

7. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.

A. COLVIN.

V. N. MANDLIK.*

W. S. WHITESIDE.

RANA SHANKAR BAKSH.

The 28th January, 1887.

*If we are to have an Act like this (the Bombay authorities do not see the necessity for one, and I entirely agree in their views), it should be either simultaneous with or follow the amending Court-fees Act; because the object of the Act is "to prescribe a simple mode of valuing suits," and that will depend on the rules laid down. These rules cannot be laid down now, because it is said we have no data for framing them, and they will take a long time to collect. If so, there can be no harm, it seems to me, in postponing the passing of the Act until we get all the materials before us. At present we are merely doing some administrative work; the real legislative work will be done by one of the executive departments. To such a procedure I am opposed on principle.

In other respects I agree with my colleagues.

V. N. MANDLIK.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th February, 1887, and is hereby promulgated for general information:—

ACT NO. VIII OF 1887.

An Act to abolish Military Courts of Requests as established by Indian Military Law.

WHEREAS it is expedient to repeal that portion of the Indian Military Law which relates to Military Courts of Requests and other military tribunals having jurisdiction with respect to actions of a civil nature; It is hereby enacted as follows:—

1. This Act shall come into force on the first day of April, 1887.
2. The enactments mentioned in the schedule are hereby repealed to the extent specified in the third column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
<i>Acts of the Governor General in Council.</i>		
Act XI of 1841.	Military Courts of Requests for Native Officers and Soldiers.	So far as it has not been repealed.
Act XII of 1842.	Regulation of Military Bázars and Liabilities of Camp-followers.	So far as it has not been repealed.
Act XXXIII of 1852.	Enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.	So far as it has not been repealed.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
<i>Acts of the Governor General in Council—continued.</i>		
Act III of 1859.	Conferment of Civil Jurisdiction in certain cases on Cantonment Joint Magistrates.	So far as it has not been repealed.
Act XII of 1868.	Suspension of operation of section 17, Act XI, 1841.	The whole.
Act XV of 1874.	Laws Local Extent Act, 1874.	Clauses (e) and (h) of section 8; so much of the first schedule as relates to Acts XI of 1841, XII of 1842, XXXIII of 1852 and III of 1859; and so much of the second schedule as relates to Act XIV of 1855.
Act III of 1880.	Cantonments . . .	Section 8.
Act XIV of 1882.	Code of Civil Procedure.	Clause (b) of section 6.
<i>Act of the Governor of Madras in Council.</i>		
Act I of 1866.	Cantonments . . .	Section 9, down to and inclusive of the words "provided also that".

Number and year.	Subject or title.	Extent of repeal.	Number and year.	Subject and Title.	Extent of repeal.
1	2	3	1	2	3
<i>Bengal Regulation.</i>			<i>Bombay Regulation.</i>		
XX of 1810	Military Bazars	Section 1, from and inclusive of the words "and it has further been deemed expedient, for the ease and security of dealers" down to and inclusive of the words "such retainers or traders".	XXII of 1827.	Military Authority	The following portions so far as they have not been repealed, namely:— (a) the first clause of section 3; (b) the first twenty-seven words of the second clause of that section; (c) section 7; and (d) section 32.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to abolish Military Courts of Requests as established by Indian Military Law was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th January, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to abolish

From Under Secretary to Chief Commissioner, Central Provinces, No. 4858—283, dated 23rd October, 1886 [Paper No. 1].

From Officiating Secretary to Chief Commissioner, Assam, No. 2286, dated 22nd October, 1886 [Paper No. 2].

From Secretary to Chief Commissioner, Burma, No. 791—30 M., dated 29th October, 1886 [Paper No. 3].

From Secretary to Government, North-Western Provinces and Oudh, No. 909—VII-350, dated 29th November, 1886, and enclosures [Papers No. 4].

From Secretary to Chief Commissioner, Coorg, No. 2146—4426, dated 25th November, 1886, and enclosure [Papers No. 5].

From Chief Secretary to Government, Madras, No. 3107, dated 22nd November, 1886, and enclosures [Papers No. 6].

From Secretary for Berar to Resident, Hyderabad, No. 439 G., dated 29th November, 1886 [Paper No. 7].

From Acting Under Secretary to Government, Bombay, No. 6978, dated 30th November, 1886, and enclosures [Papers No. 8].

From Chief Commissioner, Ajmere-Merwara, No. 21 C., dated 4th December, 1886 [Paper No. 9].

From Registrar, High Court, Calcutta, No. 2733, dated 8th December, 1886 [Paper No. 10].

From Chief Secretary to Government, Bengal, No. 3625 J., dated 7th December, 1886 [Paper No. 11].

first day of April, 1887. By that date translations will have been prepared and published, and Local Governments will have had time to complete such administrative arrangements as may be rendered necessary by the Bill.

3. We have added to the schedule of repeals those portions of the Laws Local Extent Act, 1874, which are connected with the subject-matter of the Bill, and a portion of Bengal Regulation XX of 1810 which has through oversight hitherto remained unrepealed.

Military Courts of Requests as established by Indian Military Law was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. We have proposed that the Bill come into force on the

4. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	2nd, 9th and 16th October, 1886.
Fort Saint George Gazette	19th October, 1886.
Bombay Government Gazette	21st October, 1886.
Calcutta Gazette	13th, 20th and 27th October, 1886.
North-Western Provinces and Oudh Government Gazette	9th, 16th and 23rd October, 1886.
Punjab Government Gazette	7th, 14th and 21st October, 1886.
Central Provinces Gazette	9th, 16th and 23rd October, 1886.
Burma Gazette	23rd and 30th October, and 6th November, 1886.
Assam Gazette	23rd and 30th October, and 6th November, 1886.
Coorg District Gazette	1st November, 1886.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	4th November, 1886.
	Gujaráthi	11th November, 1886.
	Kanarese	4th November, 1886.
Bengal	Bengali	2nd and 9th November, 1886.
	Hindi	30th November, 1886.
	Uriya	11th November, 1886.
Central Provinces	Maráthi	10th, 17th and 24th November, 1886.

5. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

The 28th January, 1887.

G. CHESNEY
J. B. PEILE.
ANDREW R. SCOBLE.
W. S. WHITESIDE.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.



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CALCUTTA, SATURDAY, FEBRUARY 26, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1887, and is hereby promulgated for general information:—

ACT NO. IX OF 1887.

THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887.

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The Provincial Small Cause Courts Act, 1887.

(Chapter I.—Preliminary.—Sections 1-4. Chapter II.—Constitution of Courts of Small Causes.—Sections 5-8.)

SECTIONS.

- 34. Modification of Code as so applied.
- 35. Continuance of proceedings of abolished Courts.
- 36. Amendment of Indian Limitation Act.
- 37. Publication of certain orders.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Provincial Small Cause Courts Act, 1887.

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of July, 1887.

2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But all Courts constituted, limits, fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under Act No. XI of 1865 (*an Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act.

(3) Any enactment or document referring to Act No. XI of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof

3. Nothing in this Act shall be construed to affect—

- (a) any proceedings before or after decree in any suit instituted before the commencement of this Act; or

(b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Panchayats under the provisions of the Madras Code, or of Village Munsifs under the Dekkhan Agriculturists' Relief Act, 1879; or

(c) any local law or any special law other than the Code of Civil Procedure. XIV of 1822.

4. In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

5. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency-town.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

6. (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.

(2) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs.

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

8. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(2) The Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions, shall exercise the same powers as the Judge.

(3) The Judge may withdraw from the Additional Judge any business pending before him.

The Provincial Small Cause Courts Act, 1887.

(Chapter II.—*Constitution of Courts of Small Causes.*—Sections 9-14. Chapter III.—*Jurisdiction of Courts of Small Causes.*—Sections 15-16.)

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

(2) If they differ on any matter other than a matter specified in sub-section (1), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section (2), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

12. (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

13. Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf,

the law or practice for the time being applicable to the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

15. (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.

16. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

*The Provincial Small Cause Courts Act, 1887.**(Chapter IV.—Practice and Procedure.—Sections 17-22.)*

CHAPTER IV.

PRACTICE AND PROCEDURE.

17. (1) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code, as amended by this Act, shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

18. (1) Suits cognizable by the Registrar under section 12, sub-sections (3) and (4), shall be tried by him, and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

19. (1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(2) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him:

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

20. (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorised in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(2) Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds and in the same manner as if the decree had been passed by himself.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

22. When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

The Provincial Small Cause Courts Act, 1887.

(Chapter IV.—Practice and Procedure.—Sections 23-27. Chapter V.—Supplemental Provisions.—Sections 28-31.)

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

XIV of 1882. (2) When a Court returns a plaint under subsection (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

XIV of 1882. 24. Where an order specified in section 588, clause (29), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

XIV of 1882. 26. In the second schedule to the Code of Civil Procedure—
(a) for "CHAPTER VIII.—Section III, Set-off" the following shall be substituted, namely:—

"CHAPTER VIII.—Of Written Statements and Set-off";

(b) the following shall be inserted between the portion of the schedule referring to CHAPTER XV and that referring to CHAPTER XVII, namely:—

"CHAPTER XVI.—Of Affidavits";

(c) in the particulars against CHAPTER XIX, for "275 to 280 (both inclusive), 283" the following shall be substituted, namely:—

"275 to 283 (both inclusive)";

(d) for "CHAPTER XLVII.—Of Review of Judgment" the following shall be substituted, namely:—

"CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630"; and

(e) for "CHAPTER XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), sec-

tions 649 to 652 (both inclusive)" the following shall be substituted, namely:—

"CHAPTER XLIX.—Miscellaneous."

27. Save as provided by this Act a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—

(a) keep such registers, books and accounts as the High Court from time to time prescribes, and

(b) comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

30. The Local Government may, by order in writing, abolish a Court of Small Causes.

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

*The Provincial Small Cause Courts Act, 1887.**(Chapter V.—Supplemental Provisions.—Sections 32-37. The First Schedule.—Enactments repealed.)*

Application of Act to Courts invested with jurisdiction of Court of Small Causes.

32. (1) So much of Chapters III and IV as relates to—

- (a) the nature of the suits cognizable by Courts of Small Causes,
- (b) the exclusion of the jurisdiction of other Courts in those suits,
- (c) the practice and procedure of Courts of Small Causes,
- (d) appeal from certain orders of those Courts and revision of cases decided by them, and
- (e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

33. A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court, with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts.

Modification of Code as so applied.

34. Notwithstanding anything in the last two foregoing sections,—

- (a) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or
- (b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

35. (1) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from

any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of XIV of 1882. Small Causes, or in any other enactment for the time being in force.

36. In the third division of the second schedule to the Indian Limitation Act, 1877,—

(a) after No. 160 the following shall be inserted, namely:—

"160A. For a review of judgment by a Provincial Court of Small Causes, or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction.	Ditto.	The date of the decree or order."
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and (b) in No. 173, the words, figures and letter "No. 160 A and" shall be inserted before the word and figures "No. 162."

37. All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act XI of 1865.	Mufassal Small Cause Courts Act.	So much as has not been repealed.
Act VI of 1871.	Bengal Civil Courts Act.	Section 30.
Act III of 1873.	Madras Civil Courts Act.	Section 29, paragraph one.
Act XV of 1874.	Laws Local Extent Act.	So much of the first schedule as relates to Acts XI of 1865 and X of 1867.
Act XII of 1881.	North-Western Provinces Rent Act.	In section 2, the words and figures "and Act No. XI of 1865, section 52."
Regulation I of 1877.	Ajmere Courts Regulation.	Section 33.

*The Provincial Small Cause Courts Act, 1887.**(The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)*

THE SECOND SCHEDULE.

SUITS EXCEPTED FROM THE COGNIZANCE OF
A COURT OF SMALL CAUSES.*(See section 15.)*

- (1) A suit concerning an act or order purporting to be done or made by the Governor General in Council or a Local Government, or by the Governor General or a Governor, or by a Member of the Council of the Governor General or of the Governor of Madras or Bombay, in his official capacity, or concerning an act purporting to be done by any person by order of the Governor General in Council or a Local Government;
- (2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office;
- (3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office;
- (4) a suit for the possession of immoveable property or for the recovery of an interest in such property;
- (5) a suit for the partition of immoveable property;
- (6) a suit by a mortgagee of immoveable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immoveable property for the redemption of the mortgage;
- (7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immoveable property;
- (8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto;
- (9) a suit concerning the liability of land to be assessed to land-revenue;
- (10) a suit to restrain waste;
- (11) a suit for the determination or enforcement of any other right to or interest in immoveable property;
- (12) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive or periodically recurring right to discharge the functions of an office;
- (13) a suit to enforce payment of the allowance or fees respectively called *málik-ána* and *hakk*, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property or in an hereditary office or in a shrine or other religious institution;
- (14) a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870, the whole X of 1870. or any part of the compensation;
- (15) a suit for the specific performance or rescission of a contract;
- (16) a suit for the rectification or cancellation of an instrument;
- (17) a suit to obtain an injunction;
- (18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution;
- (19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil XIV of 1882. Procedure;
- (20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure;
- (21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian;
- (22) a suit for property which the plaintiff has conveyed while insane;
- (23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;
- (24) a suit to contest an award;
- (25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India;
- (26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure;
- (27) a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets V of 1881.
- (28) a suit for a legacy or for the whole or a share of a residue bequeathed by a

*The Provincial Small Cause Courts Act, 1887.**(The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)*

testator, or for the whole or a share of the property of an intestate ;

(29) a suit—

- (a) for a dissolution of partnership or for the winding-up of the business of a partnership after its dissolution ;
- (b) for an account of partnership-transactions ; or
- (c) for a balance of partnership-account, unless the balance has been struck by the parties or their agents ;

(30) a suit for an account of property and for its due administration under decree ;

(31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant ;

(32) a suit for a general average loss or for salvage ;

(33) a suit for compensation in respect of collision between ships ;

(34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy ;

(35) a suit for compensation—

- (a) for loss occasioned by the death of a person caused by actionable wrong ;
- (b) for wrongful arrest, restraint or confinement ;
- (c) for malicious prosecution ;
- (d) for libel ;
- (e) for slander ;
- (f) for adultery or seduction ;
- (g) for breach of contract of betrothal or promise of marriage ;
- (h) for inducing a person to break a contract made with the plaintiff ;
- (i) for obstruction of an easement or diversion of a watercourse ;
- (j) for illegal, improper or excessive distress or attachment ;

(k) for improper arrest under Chapter XXXIV of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV of that Code ; or

(l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause ;

(36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower ;

(37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce ;

(38) a suit relating to maintenance ;

(39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village-community or to his heir or other successor in title ;

(40) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums ;

(41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family ;

(42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property ;

(43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue or of a demand recoverable as an arrear of land-revenue ;

(44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th February, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate

and amend the law relating to Courts of Small Causes established beyond the Presidency-towns was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Mr. P. R. Desai, Pleader, District Court, Satara, dated 30th December, 1885 [Paper No. 1].
 From Babu Upendra Nath Mitra, Vakil, High Court, Calcutta, dated 3rd February, 1886 [Paper No. 2].
 From Mahomed Mahmud Husayn, Pleader, Upper Grade, Allahabad, dated 13th February, 1886 [Paper No. 3].
 From Secretary to Chief Commissioner, Assam, No. 401, dated 20th February, 1886 [Paper No. 4].
 Memorandum by Lala Sanwal Singh, Munsif, Jaunpur, North-Western Provinces [Paper No. 5].
 From Chief Commissioner, Ajmere-Merwara, No. 345 C., dated 27th February, 1886, and enclosure [Papers No. 6].
 From Secretary to Chief Commissioner, Coorg, No. 203-548, dated 2nd March, 1886, and enclosure [Papers No. 7].
 From Acting Chief Secretary to Government, Madras, No. 531, dated 1st March, 1886, and enclosures [Papers No. 8].
 From Under-Secretary to Government, Bombay, No. 1463, dated 5th March, 1886, and enclosures [Papers No. 9].
 From Secretary for Berar to Resident, Hyderabad, No. 66 G., dated 11th March, 1886, and enclosures [Papers No. 10].
 Endorsement by Acting Chief Secretary to Government, Madras, No. 589, dated 8th March, 1886, and enclosures [Papers No. 11].
 From Secretary to Government, North-Western Provinces and Oudh, No. 248-VII-246-19, dated 3rd April, 1886, and enclosures [Papers No. 12].
 From Officiating Secretary to Chief Commissioner, British Burma, No. 33-7L., dated 2nd April, 1886 [Paper No. 13].
 From Officiating Registrar, High Court, Calcutta, No. 940, dated 7th April, 1886 [Paper No. 14].
 From Secretary to Government, Punjab, No. 456, dated 20th April, 1886, and enclosures [Papers No. 15].
 From Secretary to Government, North-Western Provinces and Oudh, No. 397-VII-246-21, dated 2nd June, 1886, and enclosures [Papers No. 16].
 From Officiating Chief Secretary to Government, Bengal, No. 545].—D., dated 31st May, 1886, and enclosures [Papers No. 17].
 From Under-Secretary to Chief Commissioner, Central Provinces, No. 2607-152, dated 17th June, 1886, and enclosures [Papers No. 18].
 From Chief Secretary to Government, North-Western Provinces and Oudh, No. 633-VII-246-22, dated 18th August, 1886, and enclosure [Papers No. 19].
 From Secretary to Government, Punjab, No. 888, dated 26th August, 1886, and enclosures [Papers No. 20].

3. *Section 2.*—We have provided for the continuance of Courts established, and orders made, under the enactments repealed by Act XI of 1865.

4. *Section 3.*—We have provided that the Act is not to affect any proceedings before or after decree in any suit instituted before the commencement of the Act, and we have removed from the section the reference to Act III of 1859, that Act being about to be repealed by the Council of the Governor-General. The reference to the Army Act of 1881 will be covered by the saving of special laws which we have proposed to add to the section.

5. *Section 4.*—Several of the definitions have, since the Bill was introduced, been enacted in the General Clauses Act, 1887. As section 2 of the Code of Civil Procedure extends to Courts of Small Causes, the definition of "District" and "District Court" seem to us to be superfluous.

6. *Section 5.*—We have transferred to this section the substance of section 28.

7. *Section 7.*—We have provided that the fixing of times of sitting by a Judge of more than one Court of Small Causes shall be subject to the sanction of the District Court.

8. *Section 9 (section 10 of Bill as revised by us).*—We have provided for orders under this section being made after consultation with the High Court.

9. *Section 11 (section 12 of Bill as revised).*—We have proposed that the Registrar of a Court of Small Causes shall be appointed, not by the Judge of the Court, but, as under Act XI of 1865, by the Local Government.

10. *Sections 12 and 13 (section 13 of Bill as revised).*—It is proposed to make the establishment of a Court of Small Causes part of the Civil Court Ministerial Service of the district in which the Court is situate.

11. *Section 14.*—We have so amended this section as to leave unfettered the discretion of High Courts as to the powers and duties which may by rules under the section be conferred and imposed on ministerial officers of Courts of Small Causes.

12. *Section 16.*—We have proposed to omit this section on the ground of its being not more necessary in the case of Courts of Small Causes than in that of other Courts.

13. *Section 19 (section 17 of Bill as revised).*—We have met the objections to proviso (a) by enabling the Court to take security for the performance of the decree instead of requiring the deposit of the amount of the decree, by omitting from the second schedule to the Code of Civil Procedure the dilatory sections of Chapter XLVII, and by extending the time within which an application may be made for a review of judgment.

Proviso (b) has been transferred to the Bill to amend the Code of Civil Procedure which is now pending before the Council of the Governor-General.

• 14. *Section 20.*—We have given effect to the opinion, which is very generally expressed, that the whole of Chapter VIII of the Code should extend to Courts of Small Causes.

15. *Section 21.*—Seeing that sections 223 and 228 of the Code extend to Courts of Small Causes, this section seems to us to be unnecessary. We have therefore removed it from the Bill.

16. *Section 23 (section 19 of Bill as revised).*—We have acted on a suggestion that some discretion should be given to the Judge as to the admission or dismissal of an application which is made under this section subsequently to the first sitting of the Judge after the plaint was admitted, or returned or rejected, by the Registrar.

17. *Section 22 of Bill as revised.*—This section has been suggested to us by the Judge of the Courts of Small Causes at Surat and Broach.

18. *Section 23 of Bill as revised.*—This section is based on suggestions made by several Judges of experience in different parts of the country.

19. *Section 24 of Bill as revised.*—This section supplements the defective expression of section 589 of the Code of Civil Procedure.

20. *Section 25 of Bill as revised.*—The opinion appears to be universal that the ruling of the Privy Council in *Amir Hassan Khan versus Sheo Baksh Singh* (I. L. R. 11 Cal. 6) has rendered it absolutely necessary to extend the jurisdiction which the High Courts possess over the judicial proceedings of Courts of Small Causes and of other Courts invested with their powers. It is of course desirable that nothing should be done to encourage needless resort to the High Court, but, as the Hon'ble the Chief Justice and Judges of the High Court at Fort William have observed, this consideration should be one rather for the High Court than to be used to remove an important branch of the lower judicature from all control and so to deprive it of the advantage of a subordinate relation to that authority which exists for the express purpose of guiding the inferior tribunals by its exposition of the law.

21. *Section 26 of Bill as revised.*—The only part of this section which calls for notice here is that which applies Chapter XVI of the Code of Civil Procedure to Courts of Small Causes. That Chapter does apply to Presidency Courts and the balance of opinion is strongly in favour of making it applicable to Provincial Courts of Small Causes also.

22. *Section 29 (section 28 of Bill as revised).*—We have added a sub-section descriptive of the nature of the administrative control to be vested in the District Court.

23. *Section 32 (section 31 of Bill as revised).*—We have so expressed this section as to make it clear that the Local Government may appoint a Judge of a Court of Small Causes to be a Registrar under the Indian Registration Act, 1877, or to hold any other public office.

24. *Section 33, sub-section (1) (section 32, sub-section (1), of Bill as revised).*—We have added words supplementary to section 25 of the Bill as revised, and a sub-section for the purpose of solving a question which has frequently been raised.

25. *Section 34 of Bill as revised.*—This section is suggested by the case reported at I. L. R. 9 Bom. 237.

26. *Section 35 of Bill as revised.*—This section has been suggested by the opinions on the Bill, and follows a section inserted for the same purpose in the Bengal Civil Courts Bill now pending before the Council of the Governor-General.

27. *The First Schedule.*—We have, we believe, completed the list of necessary repeals.

28. *The Second Schedule.*—By our amendments of this schedule we have placed the following suits within the cognizance of Provincial Courts of Small Causes, namely:—

- (a) suits against local authorities, including municipalities;
- (b) suits for recovery of rent of agricultural land in certain circumstances; and
- (c) suits for enforcement of lien on moveable property, and by pawnors for the redemption or recovery of pledges;

and we have excluded from the cognizance of those Courts the following suits, namely:—

- (a) suits to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870, the whole or any part of the compensation;
- (b) suits relating to trusts;
- (c) suits for property which a plaintiff has conveyed while insane;
- (d) suits on judgments;
- (e) suits to compel refund of assets improperly distributed under section 295 of the Code of Civil Procedure;
- (f) suits for the winding-up of the business of a partnership after its dissolution;
- (g) suits for surplus collections of mortgaged property or for profits of immove-

- (h) suits for loss occasioned by the death of a person caused by actionable wrong ;
 (i) suits for compensation for certain torts ;
 (j) suits for dower ;
 (k) suits for custody of minors ;
 (l) suits for shares in perquisites of hereditary offices and in offerings at shrines ;
 and
 (m) suits by one of several joint mortgagors of immoveable property for contribution in respect of money paid for the redemption of the mortgaged property.

29. The publication ordered by the Council has been made as follows :—

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
Gazette of India	19th and 26th December, 1885, and 2nd January 1886.	
Fort Saint George Gazette	13th January, 1886.	
Bombay Government Gazette	24th and 31st December, 1885, and 7th January, 1886.	
Calcutta Gazette	23rd and 30th December, 1885, and 6th January, 1886.	
North-Western Provinces and Oudh Government Gazette	26th December, 1885, and 2nd and 9th January, 1886.	
Punjab Government Gazette	7th and 14th January, 1886.	
Central Provinces Gazette	26th December, 1885, and 2nd and 9th January, 1886.	
Burma Gazette	9th, 16th and 23rd January, 1886.	
Assam Gazette	9th, 16th and 23rd January, 1886.	
Coorg District Gazette	1st February, 1886.	

In the Vernaculars

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil	17th March, 1886.
	Telugu	17th March, 1886.
	Hindustani	30th July, 1886.
	Kanarese	4th June, 1886.
	Malayalam	3rd March, 1886.
Bombay	Marathi	4th February, 1886.
	Gujarathi	4th February, 1886.
	Kanarese	11th February, 1886.
Bengal	Bengali	2nd and 9th February, 1886.
	Hindi	2nd February, 1886.
	Urdu	25th March, 1886.
North-Western Provinces and Oudh	Urdu	6th, 13th and 20th February, 1886.
Punjab	Urdu	4th February, 1886.
Central Provinces	Marathi	24th February, 1886.
	Hindi	10th, 17th and 24th March, 1886.

30. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended by us.

ANDREW R. SCOBLE.

J. B. PEILE.

W. W. HUNTER.

V. N. MANDLIK.

PEARI MOHAN MUKERJI.

The 11th February, 1887.

S HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1887, and is hereby promulgated for general information:—

ACT NO. X OF 1887.

**THE NATIVE PASSENGER SHIPS
ACT, 1887.**

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SCHEDULE—ENACTMENTS REPEALED.

An Act to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to Native Passenger Ships; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Native Passenger Ships Act, 1887.
2. (1) It extends to the whole of British India, and applies—
 - (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;
 - (b) to all native Indian subjects of Her Majesty without and beyond British India; and,
 - (c) subject to the exceptions mentioned in sub-section (2), to ships carrying as passengers more than thirty natives of Asia or Africa.
- (2) But it does not apply—
 - (i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or
 - (ii) to any other ship for the time being in the service of Her Majesty, or
 - (iii) to any ship-of-war belonging to any Foreign Prince or State, or
 - (iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or
 - (v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India.
- (3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor General in Council, declare all or any of the provisions of this Act to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen

natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives.

3. This Act shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints.

4. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(2) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

5. In this Act, unless there is something repugnant in the subject or context,—

(1) "ship" means a ship to which this Act applies:

(2) "passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger:

(3) "long voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port:

(4) "short voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port:

(5) "voyage", when used without the prefix "long" or "short", means the whole distance between the ship's port or place of departure and her final port or place of arrival:

(6) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Act applies: and

(7) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class.

CHAPTER II.

RULES FOR ALL VOYAGES.

6. (1) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British India, unless it has been previously notified to the Government.

*The Native Passenger Ships Act, 1887.**(Chapter II.—Rules for all Voyages.—Sections 7-11.)*

India other than a port or place appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

11. The second of the certificates (hereinafter called "certificate B") shall state—

(a) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;

(b) that she has the proper complement of officers and seamen;

(c) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules;

(d) that the master holds certificate A;

(e) if the ship is to make a short voyage in a season of foul weather, and to carry

upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(f) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act; and

(g) such other particulars, if any, as may be prescribed by those rules.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

13. Where the master of a ship produces to that officer either of the following certificates, namely,—

(a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(b) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

14. (1) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make:

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated

The Native Passenger Ships Act, 1887.

(Chapter II.—Rules for all Voyages.—Sections 15-17. Chapter III.—Rules for Short Voyages.—Sections 18-20. Chapter IV.—Rules for Long Voyages.—Section 21.)

for the voyage, the expense of the survey shall be paid by the Local Government.

15. (1) The officer authorized to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

CHAPTER III.

RULES FOR SHORT VOYAGES.

18. (1) For seasons of fair weather, a ship performing a short voyage shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, a ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

19. If a ship performing a short voyage takes on board additional passengers at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section 7 a supplementary certificate stating—

- (a) the number of passengers so taken on board, and
- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules:

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

20. When the ship reaches her final port or place of arrival, the master shall notify to such officer as the Governor General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

21. (1) A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve

*The Native Passenger Ships Act, 1887.**(Chapter IV.—Rules for Long Voyages.—Sections 22-30.)*

superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and, before any passengers leave the ship, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 7.

24. (1) In either of the following cases, namely,—
 (a) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or
 (b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,
 the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Act with respect to certificate B and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in accordance with the rules under this Act.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and

(b) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Act.

30. (1) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

*The Native Passenger Ships Act, 1887.**(Chapter V.—Penalties.—Sections 31-38.)*

(2) If in the opinion of the officer making an inspection under this section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

33. If a master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statements concerning passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report

deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

36. If a master without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

37. (1) If a ship carrying passengers to or from any port or place in British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act, the master and owner shall, for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, granted

*The Native Passenger Ships Act, 1887.**(Chapter V.—Penalties.—Sections 39-50.)*

in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

43. If in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both.

46. (1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

50. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition

Penalty on master or owner of certain ships sailing without medical officer. Jurisdiction. Application of fines. Depositions of absent witnesses.

*The Native Passenger Ships Act, 1887.**(Chapter VI.—Supplemental Provisions.—Sections 51-5.)*

which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted :

Provided that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or consular officer ;
- (b) it was made in the presence of the person accused ; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

51. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf

of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

53. (1) The Governor General in Council may make rules consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters :—

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water ;
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (c) the licensing and appointment of medical officers in cases where they are required by this Act to be carried ;
- (d) the boats, anchors and cables to be provided on board ;
- (e) the instruments for purposes of navigation to be supplied ;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
- (i) the access of between-decks passengers to the upper deck ; and
- (j) generally, to carry out the purposes of this Act.

(2) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act to regulate, in the case of any ship or class of ships,—

- (a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf ; and
- (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may

*The Native Passenger Ships Act, 1887.**(Chapter VI.—Supplemental Provisions.—Sections 54-57.) (Schedule.—Enactments repealed.)*

extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

54. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

55. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Act, "seasons of fair weather" and "seasons of foul weather", and, for sailing-ships and steam-ships respectively, a "long voyage" and a "short voyage".

56. The Governor General in Council may by order prescribe in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

57. (1) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

SCHEDULE.

ENACTMENTS REPEALED.

(See section 4.)

Number and year.	Title.	Extent of repeal.
VIII of 1876	Native Passenger Ships Act, 1876.	The whole.
XVII of 1883	Native Passenger Ships Act, 1883.	The whole.
VII of 1884	Indian Steam-ships Act, 1884.	Section 41.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Native Passenger Ships, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 11th February, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to Native Passenger Ships was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. *Section 2.*—We have described more particularly the ships belonging to or in the service of Her Majesty to which the Act is not to apply, and we have omitted as redundant the clause in sub-section (2) declaring the Act not to apply to sailing-ships carrying not more than thirty passengers.

From Secretary for Berar to Resident, Hyderabad, No. 326, dated 13th September, 1886 [Paper No. 1].
 From Officiating Secretary to Chief Commissioner, Central Provinces, No. 4310-253, dated 22nd September, 1886 [Paper No. 2].
 From Secretary to Chief Commissioner, Assam, No. 2039, dated 24th September, 1886 [Paper No. 3].
 From Secretary to Government, Punjab, No. 1036, dated 22nd October, 1886 [Paper No. 4].
 From Chief Commissioner, Ajmere-Merwara, No. 1225-690-11., dated 23rd October, 1886 [Paper No. 5].
 From Secretary to Chief Commissioner, Coorg, No. 1903-3936, dated 22nd October, 1886 [Paper No. 6].
 From Chief Secretary to Government, Madras, No. 2880, dated 25th October, 1886, and enclosures [Papers No. 7].
 From Secretary to Chief Commissioner, Burma, No. 27-51 M. S., dated 2nd November, 1886 [Paper No. 8].
 From Under Secretary to Government, North-Western Provinces and Oudh, No. 860-VII-342, dated 12th November, 1886 [Paper No. 9].
 From Acting Secretary to Government, Bombay, No. 3980, dated 15th November, 1886, and enclosures [Papers No. 10].
 From Registrar, High Court, Calcutta, No. 2607, dated 24th November, 1886 [Paper No. 11].
 Endorsement by Government, Madras, No. 3000, dated 10th November, 1886, and enclosure [Papers No. 12].
 From Officiating Secretary to Government, Bengal, No. 3264, dated 10th December, 1886, and enclosures [Papers No. 13].

3. *Section 3.*—We have re-cast the definition of “passenger”, and so amended that of “voyage” as to render unnecessary the *Illustration* to the definition of “short voyage”. We have also modified, but not materially altered, the definitions of “Chief Customs-officer” and “Magistrate”.

4. *Section 30, sub-section (1).*—We have inserted the words “and in such manner” with the object of enabling Local Governments to issue suitable instructions with respect to the medical inspection of women embarking on passenger-ships.

5. *Chapter V.*—On the suggestion of the Solicitor to the Government of Bombay, we have thrown on the accused the burden of proving that certain infractions of the Act were unintentional or inevitable.

From section 38 (section 37 of Bill as revised by us) we have removed certain words which had reference to the frame of the Native Passenger Ships Act of 1870 rather than of the Act of 1876 or of the Bill.

By the same section we have empowered local authorities to forward passengers landed from an overcrowded ship to any port at which they had contracted to land, whether that port is within or beyond the limits of British India.

6. *Section 51.*—We have required information respecting the state of passenger-ships to be sent not only to ports of departure but also to ports of destination.

7. *Section 53.*—We have specially provided in sub-section (1) that the Governor General in Council may make rules to regulate the supply of appliances for saving life, and in sub-section (2) that rules under that sub-section are to be made with the previous sanction of the Governor General in Council. In the latter sub-section we have further provided that rules may be made as to the time within which ships are to depart or proceed on their voyages after commencing to take passengers on board.

8. *Section 56 (formerly section 57).*—We have provided that orders made by the Governor General in Council under this section may be alternative to, or override, the provisions of sections 18 and 21.

9. *Section 57 (formerly section 58).*—We have added a sub-section providing for the enforcement of the conditions subject to which ships may be exempted from any of the provisions of the Act.

10. The publication ordered by the Council has been made as follows:—

<i>In English.</i>		
<i>Gazette.</i>		<i>Date.</i>
Gazette of India		28th August, and 4th and 11th September, 1886.
Fort Saint George Gazette		17th September, 1886.
Bombay Government Gazette		2nd October, 1886.
Calcutta Gazette		8th, 15th and 22nd September, 1886.
North-Western Provinces and Oudh Government Gazette		4th, 11th and 18th September, 1886.
Punjab Government Gazette		2nd, 9th and 16th September, 1886.
Central Provinces Gazette		4th, 11th and 18th September, 1886.
Burma Gazette		18th and 25th September, and 2nd October, 1886.
Assam Gazette		18th and 25th September, and 2nd October, 1886.
Coorg District Gazette		1st October, 1886.

<i>In the Vernaculars.</i>		
<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil	4th January, 1887.
	Telugu	21st December, 1886.
	Malayalam	18th January, 1887.
Bombay	Maráthi	18th November, 1886.
	Gujaráthi	18th November, 1886.
	Kanarese	18th November, 1886.
Bengal	Bengali	9th and 16th September, 1886.
	Hindi	16th, 23rd and 30th September, 1886.
	Uriya	18th and 25th November, and 2nd December, 1886.

11. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. COLVIN.

J. B. PEILE.

ANDREW R. SCOBLE.

ROBERT STEEL.

SYUD AMEER HOSSEIN.

The 11th February, 1887.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 25th February, 1887, and is hereby promulgated for general information:—

ACT NO. XI OF 1887.

An Act to provide for the regulation of traffic on the Sindh-Pishin Section of the North-Western Railway.

WHEREAS it is inexpedient that the Indian Railway Act, 1879, so far as it applies to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh, should apply thereto in its entirety; It is hereby enacted as follows:—

1. (1) This Act may be called the Sindh-Pishin Railway Act, 1887.

(2) It shall extend to all persons for whom the Governor General in Council has power to make laws and regulations at meetings for that purpose; and

(3) It shall come into force at once.

2. In the following sections of this Act, "railway" means that part of the Sindh-Pishin section of the North-Western Railway which, whether completed at the commencement of this Act or not, lies beyond the Province of Sindh.

3. (1) Unless and until extended under this section, no portion of the Indian Railway Act, 1879, IV of 1879, shall apply to any part of the railway.

(2) The Governor General in Council may, by notification in the Gazette of India, extend to the railway or any part thereof such portions of that Act as he thinks fit.

(3) In extending any portion of that Act to the railway or any part thereof the Governor General in Council may extend it subject to such modifications as he thinks fit.

4. (1) No person shall be entitled, as of right, to be carried on the railway carriage of passengers and property or to have property carried thereon; permissive only.

(2) But the carriage of passengers and property on the railway shall be permitted subject to such conditions and restrictions as the Governor General in Council may prescribe.

5. Where any person or property is permitted to be carried on the railway, the Government shall not be responsible for any injury which may happen to the person, or for any loss or damage which may occur in respect of the property, unless the injury happens, or the loss or damage occurs, on a part of the railway with respect to which the Governor General in Council has, by notification in the Gazette of India, announced that the Government accepts responsibility, to such extent as may be described in the notification, for injury happening, or loss or damage occurring, thereon.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

STATEMENT OF OBJECTS AND REASONS.

THE Sindh-Pishin section of the North-Western Railway has been constructed for strategic purposes, and must be at times exclusively, and always preferentially, appropriated to the conveyance of troops, followers and military material and stores. Moreover, from the nature of the country through which the railway passes, some portions of the line are such as to render the risk of accident necessarily greater for a time at least than on ordinary railways.

In these circumstances it is proposed to enact that only such provisions of the Indian Railway Act, 1879, shall extend to this line as the Governor General in Council may consider it desirable to apply thereto. The Government does not propose to open the line generally for the conveyance of passengers and goods under ordinary conditions, but reserves the right to limit its responsibility for injury to the person, or loss of or damage to property, on certain portions of the line, which, as already remarked, was primarily designed for other purposes. Precedent for limiting the extent of the pecuniary responsibility of proprietors of railways for injury to the person is to be found in the Massachusetts Statutes of 1840 and in the New York Laws of 1847, and in regard to goods in the special contract permitted by the Indian Railway Act, 1879. But even if such precedents did not exist the circumstances of the case are such as to require legislation.

As a considerable part of the line lies in the territory of the Khán of Kalat and the proposed Act will not, as an Act of the Council of the Governor General for making Laws and Regulations, apply to the subjects of the Khán in that territory, it is proposed, by executive order made in exercise of the jurisdiction conferred by treaty on the Governor General in Council, to notify hereafter the substance of the proposed Act to be in force on the portion of the line which lies within Kalat.

The 24th February, 1887.

T. C. HOPE.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 12, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th March, 1887, and is hereby promulgated for general information :—

ACT NO. XII OF 1887.

THE BENGAL, NORTH-WESTERN PROVINCES AND ASSAM CIVIL COURTS ACT, 1887.

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An Act to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam.

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bengal, Title, extent and North-Western Provinces commencement. and Assam Civil Courts Act, 1887.

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts, and except the Jhānsī Division; and

(3) It shall come into force on the first day of July, 1887.

2. (1) The Bengal Civil Courts Act, 1871, and Repeal. Act No. XIX of 1877 (to enable certain District Judges to suspend and remove certain ministerial officers, and for other purposes), section 1, are hereby repealed.

(2) But all Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871, or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published, shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871, or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

3. There shall be the following classes of Civil Courts under this Act, namely:—

- (1) the Court of the District Judge;
- (2) the Court of the Additional Judge;
- (3) the Court of the Subordinate Judge; and
- (4) the Court of the Munsif.

4. The Local Government may, with the previous sanction of the Governor General in Council, increase or reduce the number of District Judges and Subordinate Judges now fixed.

5. The Local Government may, subject to the control of the Governor General in Council, alter the number of Munsifs now fixed:

Provided that, except in the case of Munsifs whose monthly salary does not exceed two hundred and fifty rupees, an increase of the number of Munsifs now fixed shall not be made by the Local Government without the previous sanction of the Governor General in Council.

6. (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government may fill up the vacancy or appoint the additional District Judges or Subordinate Judges, as the case may be.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit, in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

7. (1) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly.

(2) The Local Government may, after consultation with the High Court and with the previous sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif.

(3) When rules have been made under sub-section (2), a person shall not be nominated under sub-section (1) unless he possesses the qualifications required by the rules.

*The Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.**(Chapter II.—Constitution of Civil Courts.—Sections 8-15.)*

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the High Court and with the previous sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

10. (1) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto.

(2) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

11. (1) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred:

(3) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate

Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

12. (1) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of Munsif, may appoint such person as he thinks fit to act in the office until that person is relieved by a Munsif appointed under section 7 or his appointment is cancelled by the District Judge.

(2) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

13. (1) The Local Government may, by notification in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more Subordinate Judges or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub-section (1).

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or Munsif is a Subordinate Judge or Munsif, as the case may be, within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

14. (1) The Local Government may, by notification in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

15. (1) Subject to such orders as may be made by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Civil Courts.

The Bengal, North-Western Provinces and Assam Civil Courts Act, 1867.

(Chapter II.—Constitution of Civil Courts.—Sections 16-17. Chapter III.—Ordinary Jurisdiction.—Sections 18-21. Chapter IV.—Special Jurisdiction.—Sections 22-23.)

(2) The list shall be published in the local official Gazette.

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government.

17. (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure or in any other enactment for the time being in force.

CHAPTER III.

ORDINARY JURISDICTION.

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil Procedure, to all original suits for the time being cognizable by Civil Courts.

19. (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees.

(2) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any Munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

20. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

Appeals from Subordinate Judges and Munsifs. 21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a Munsif shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

CHAPTER IV.

SPECIAL JURISDICTION.

22. (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsifs.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

23. (1) The High Court may, by general or special order, authorize any Subordinate Judge or Munsif to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsif under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(2) The proceedings referred to in sub-section (1) are the following, namely:—

(a) proceedings under Bengal Regulation V, 1799 (to limit the interference of the

*The Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.**Chapter IV.—Special Jurisdiction.—Sections 24-25. Chapter V.—Misfeasance.—Sections 26-29. Chapter VI.—Ministerial Officers.—Section 30.)*

Zillah and City Courts of Dewanny Adawlut in the Execution of Wills and Administration to the Estates of persons dying intestate);

(b) proceedings under Act XL of 1858 (for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal), or Act IX of 1861 (to amend the law relating to Minors);

(c) applications for certificates under Act No. XXVII of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons);

of 1865.
V of 1861.

(d) proceedings under the Indian Succession Act, 1865, and the Probate and Administration Act, 1881, which cannot be disposed of by District Delegates; and

XIV of 1882.

(e) references by Collectors under section 322C of the Code of Civil Procedure.

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

24. (1) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge:

Provided that an appeal from an order of a Munsif in any such proceeding shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

25. The Local Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or one hundred rupees in the case of a Munsif as it thinks fit, and may withdraw any jurisdiction so conferred.

IX of 1887.

CHAPTER V.

MISFEASANCE.

26. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(2) Whenever the High Court suspends a Subordinate Judge under sub-section (1), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit.

28. (1) The High Court may appoint a commission for enquiring into alleged misconduct of a Munsif.

(2) On receiving the report of the result of the enquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(3) The provisions of Act No. XXXVII of 1850 (for regulating Inquiries into the behaviour of Public Servants) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

(4) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry.

(5) The High Court may, without appointing a commission, remove or suspend a Munsif.

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control.

(2) Whenever a District Judge suspends a Munsif under sub-section (1), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

CHAPTER VI.

MINISTERIAL OFFICERS.

30. District Judges shall appoint the ministerial officers of their Courts, and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

The Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.
(Chapter VI.—Ministerial Officers.—Sections 31-35. Chapter VII.—Supplemental Provisions.—Sections 36-37.)

Appointment and removal of ministerial officers of other Courts. 31. (1) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

(a) in the case of an appointment not likely to last, and not lasting longer than two months, by those Courts, and

(b) in any other case, by the District Judge.

(2) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

Appointment and removal of ministerial officers on joint establishments. 32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely:—

(a) appointments not likely to last, and not lasting longer than two months shall be made by the Court of highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof; and

(b) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (a) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies.

General powers of District Judge. 33. The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control.

Transfer of ministerial officers. 34. (1) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court.

(2) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

Recovery of fines. 35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Power to confer powers of Civil Courts on officers. 36. (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

(a) any officer in the Chutiá Nágpur, Jalpaigori or Darjiling district, or in any part of the territories administered by the Chief Commissioner of Assam except the district of Silhat, or,

(b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor General in Council.

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive) or sections 27 to 35 (both inclusive) applies to any officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where, in the territories mentioned in clause (a) of sub-section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a Munsif, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a Munsif.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

Certain decisions to be according to Native law. 37. (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

The Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.

(Chapter VII.—Supplemental Provisions.—Sections 38-40.)

38. (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure.

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

39. For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure, the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge.

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887.

(2) Save as provided by that Act, the other sections of this Act do not apply to those Courts.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th March, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam was referred, have considered the Bill No. II and the papers noted on the margin, and have now the honour to submit this our further Report.

2. *Section 1.*—We have intitled the proposed Act the Bengal, North-Western Provinces and Assam Civil Courts Act instead of the Bengal Civil Courts Act.

3. *Section 6 (section 7 of Bill as revised by us).*—We have proposed that rules respecting the qualifications of persons to be appointed to the office of Munsif shall be made by the Local Government after consultation with the High Court.

4. *Section 9 (section 11 of Bill as revised).*—We have provided for the re-transfer of proceedings transferred on the vacation of the office of a Subordinate Judge.

5. *Section 18 (section 13 of Bill as revised).*—We have added a sub-section for the purpose of removing a difficulty in questions of jurisdiction caused by the practice which obtains in Bengal of distributing work among Subordinate Judges and Munsifs according to thánas.

6. *Section 20 (section 19 of Bill as revised).*—We have empowered the Local Government, on the recommendation of the High Court, to extend the jurisdiction of selected Munsifs to suits of value not exceeding two thousand rupees.

7. *Section 26 (section 23 of Bill as revised).*—We have added proceedings under the Indian Succession Act, 1865, and the Probate and Administration Act, 1881, to the list of proceedings of which Subordinate Judges and Munsifs may be permitted to take cognizance.

8. *Section 28 (section 25 of Bill as revised).*—We have raised from Rs. 50 to Rs. 100 the value of the suits which Munsifs may be empowered to try in exercise of the jurisdiction of a Judge of a Court of Small Causes.

9. *Section 31 (section 28 of Bill as revised).*—We have considered it unnecessary to retain the punishment of degradation among the punishments which the High Court may inflict on Munsifs.

10. *Section 11 (section 36 of Bill as revised).*—We have, at the request of the Government of Bengal, empowered the Local Government to invest officers belonging to any defined class with the jurisdiction of a Civil Court under the Act. In exercise of this power it will be practicable to invest with the jurisdiction of a Subordinate Judge or Munsif those junior members of the Civil Service who have elected a judicial career.

11. *Section 24 (section 38 of Bill as revised).*—We have, at the instance of the High Court at Fort William, so modified this section as, when read with section 40 of the Bill as revised, to admit of its applying to Courts of Small Causes.

12. We annex to this Report a copy of the Bill as revised by us.

13. The publication ordered by the Council has been made as follows :—

<i>In English.</i>	
<i>Gazette.</i>	<i>Date.</i>
Gazette of India	23rd and 30th October, and 6th November, 1886.
Calcutta Gazette	3rd, 10th and 17th November, 1886.
North-Western Provinces and Oudh Government Gazette	30th October, and 6th and 13th November, 1886.
Assam Gazette	13th, 20th and 27th November, 1886.

<i>In the Vernaculars.</i>	
<i>Province.</i>	<i>Language.</i>
Bengal	Bengali
	Hindi
	Uriya
	<i>Date.</i>
	25th January, 1887.
	18th January, 1887.
	30th December, 1886.

14. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.

J. B. PEILE.

W. W. HUNTER.

PEARI MOHAN MUKERJI.*

J. W. QUINTON.

The 4th March, 1887.

* I object to the provisions of section 36.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th March, 1887, and is hereby promulgated for general information:—

ACT NO. XIII OF 1887.

An Act to provide for the protection of person and property from the risks incident to the supply and use of electricity for lighting and other purposes.

WHEREAS it is expedient to control the supply and use of electricity for lighting and other purposes;

And whereas in the existing circumstances of the supply and use of electricity in India the exercise of that control by means of licenses or other like methods may be deferred, and it will suffice for the present to provide for the protection of person and property from the risks incident to such supply and use;

It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Electricity Act, 1887.

(2) It shall extend to the whole of British India; and

(3) It shall come into force on the first day of July, 1887.

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) "electricity" includes galvanism, magnetism, magneto-electricity and electro-magnetism:

(2) expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act:

(3) "purpose" includes any purpose except the transmission of a message: and

(4) "vessel" includes anything used for the conveyance by water of human beings or of property.

Notice of intention to supply or use electricity. 3. In either of the following cases, namely:—

(a) if a person intends to undertake the business of supplying electricity, or

(b) if a person intends to use electricity for any public purpose, or in any public place, or in any place where there is likelihood of the public being affected, or in a place in which one hundred or more persons are likely to be assembled, or in a place which is a factory within the meaning of the Indian Factories Act, 1881,

the person shall, one week at least before commencing the supply or use, give notice of his

intention to the District Magistrate or, in a presidency-town, to the Commissioner of Police.

4. (1) The Governor General in Council may make such rules as he thinks expedient—

(a) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the generation or supply of electricity, and

(b) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

(2) The rules may, among other matters, authorise, or empower a Local Government or other authority to authorise, any officer, either by name or in virtue of his office, to enter, inspect and examine any place, carriage or vessel in which the officer has reason to believe any such appliances or apparatus to be.

(3) Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this section on the Governor General in Council, and shall be of the same force as if enacted by this Act.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

5. If a person undertakes the business of supplying electricity, or uses electricity for any

Penalties.

such purpose or in any such place as is referred to in section 3, without giving the notice required by that section, or infringes any rule under section 4, or obstructs an officer in the exercise of his authority under any such rule to enter, inspect and examine any place, carriage or vessel, he shall be punished with fine which may extend to five hundred rupees, and, if he continues so to supply or use electricity or infringe the rule or obstruct the officer, after notice in writing to desist from so doing has been given to him by the District Magistrate or, in a presidency-town, by the Commissioner of Police, he shall be further punished with fine which may extend to one hundred rupees for every day during which such supply, use, infringement or obstruction continues.

6. The Governor General in Council may, for the placing of appliances and apparatus for the supply of electricity for any purpose of the Government, confer upon any public officer any of the powers which the telegraph-authority possesses under the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to regulate the supply of electricity for lighting and other purposes was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th March, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to regulate

the supply of electricity for lighting and other purposes was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Under Secretary to Chief Commissioner, Central Provinces, No. 5220-307, dated 15th November, 1886 [Paper No. 1].
 From Registrar, High Court, Calcutta, No. 2704, dated 2nd December, 1886 [Paper No. 2].
 From Secretary to Chief Commissioner, Assam, No. 2533, dated 7th December, 1886 [Paper No. 3].
 From Secretary to Government, Punjab, No. 23, dated 8th January, 1887 [Paper No. 4].
 From Secretary to Chief Commissioner, Burma, No. 185, dated 7th January, 1887, and enclosures [Papers No. 5].
 From Secretary for Berar to Resident, Hyderabad, No. 11 G., dated 7th January, 1887, and enclosures [Papers No. 6].
 From Secretary to Chief Commissioner, Coorg, No. 39-4796, dated 8th January, 1887 [Paper No. 7].
 From Acting Chief Secretary to Government, Madras, No. 38, dated 10th January, 1887, and enclosures [Papers No. 8].
 From Chief Commissioner, Ajmere-Merwara, No. 31-690-II, dated 12th January, 1887 [Paper No. 9].
 From Secretary to Government, Bombay, No. 3 T.-95, dated 19th January, 1887, and enclosure [Papers No. 10].
 From K. Hedges, Esq., dated 10th February, 1887 [Paper No. 11].
 From Officiating Secretary to Government, Bengal (Municipal), No. 807, dated 21st February, 1887, and enclosures [Papers No. 12].

(b) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

It appears to us that, in the present state of the electric lighting industry in India, it will suffice to make provision for the attainment of this object. We have therefore removed that portion of the original Bill which related to the grant of licenses, and have substituted in the preamble full warning that control by such or like methods may hereafter be necessary.

3. By section 3 of the Bill as amended by us we propose to require persons dealing in or using electricity to keep the authorities informed of their operations, and in section 4 we reproduce the substance of sections 8 and 9 of the original Bill respecting the making of rules by the Governor General in Council.

4. Section 5 relates to penalties, which we have reduced in amount.

5. By section 6 it is proposed to enable the Government to confer upon its officers, with respect to the placing of appliances, and apparatus for the supply of electricity for any purpose of the Government other than the transmission of messages, the same powers which the telegraph-authority possesses under the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

6. The publication ordered by the Council has been made as follows:—

		In English.	Date.
Gazette.			
Gazette of India		23rd and 30th October, and 6th November, 1886.	
Fort Saint George Gazette		2nd November, 1886.	
Bombay Government Gazette		28th October, 1886.	
Calcutta Gazette		3rd, 10th and 17th November, 1886.	
North-Western Provinces and Oudh Government Gazette.		30th October, and 6th and 13th November, 1886.	
Punjab Government Gazette		28th October, and 4th and 11th November, 1886.	
Central Provinces Gazette		30th October, and 13th and 20th November, 1886.	
Burma Gazette.		13th, 20th and 27th November, 1886.	
Assam Gazette		13th, 20th and 27th November, 1886.	
Coorg District Gazette		1st December, 1886.	

		In the Vernaculars.	Date.
Province.	Language.		
Bombay	Marathi		13th January, 1887.
	Gujarathi		6th January, 1887.
	Kanarese		27th January, 1887.

7. We do not think that the measure has been so altered as to require re-publication and we recommend that it be passed as now amended.

The 4th March, 1887.

T. C. HOPE
 ANDREW R. SCOBLE
 J. B. PEILE
 ROBERT STEEL
 DEARI MOHAN MUKERJI
 S. HARVEY JAMES
 Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 2, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 30th June, 1887, and is hereby promulgated for general information:

ACT NO. XIV OF 1887.

THE INDIAN MARINE ACT, 1887.

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An Act for the better administration of Her Majesty's Indian Marine Service.

WHEREAS by the Indian Marine Service Act, 1884, it is, among other things, enacted that the Governor-General of India in Council shall have power, subject to the provisions contained in the Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service :

Provided that—

- (a) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits; and
- (b) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament;

The Indian Marine Act, 1887.
(Chapter I.—Preliminary.—Sections 1-4.
Chapter II.—Offences and Punishments.—Section 5.)

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor-General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act;

It is hereby enacted as follows:

CHAPTER I.

PRELIMINARY.

Title and commencement. 1. (1) This Act may be called the Indian Marine Act, 1887; and

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf.

Definitions. 2. (1) In this Act, unless there is something repugnant in the subject or context,—

(a) "person subject to this Act" means a person who is employed or serves in, or belongs to, the Indian Marine Service, and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act:

(b) "gazetted officer" means a person who by virtue of his letter of appointment is holding a position in the Indian Marine Service as—

Commander,	Chief engineer,
First grade officer,	Engineer,
Second grade officer,	Assistant engineer, or
Third grade officer,	Clerk:

(c) "warrant-officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Gunner,	Engine-driver, first class,
Apothecary,	Carpenter,
Assistant apothecary,	Hospital assistant, or
Assistant clerk,	General mess steward:

(d) "petty officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Chief syrang, first class,	Tindal of lascars, first class,
Chief syrang, second class,	Tindal of lascars, second class,
Ship's steward,	Tindal of stokers, first class,
Engine-driver, second class,	Tindal of stokers, second class,
Cook on a salary of not less than fifty rupees per mensem,	Cassaub, first class,
General mess butler,	Cassaub, second class, or
Syrang of lascars, first class,	Cook on a salary of less than fifty rupees per mensem:
Syrang of lascars, second class,	

(e) "superior officer," used with reference to an officer of a rank mentioned in clause (b), clause (c) or clause (d) of this sub-section, means an officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses:

(f) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the

service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor-General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons:

(g) "enemy" includes a pirate or rebel:

(h) "Indian Marine Court" means an Indian Marine Court held under this Act:

(i) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor-General in Council: and

(j) "prescribed" means prescribed by rules made by the Governor-General in Council.

(2) If an appointment in the Indian Marine Service is created after the passing of this Act, the Governor-General in Council may, by notification published in the Gazette of India at any time after the commencement of this Act, assign to the officer for the time being holding the appointment such place in clause (b), clause (c) or clause (d) of sub-section (1) as he thinks fit, and thereupon that officer shall for all the purposes of this Act be deemed to be mentioned in that place, and to be a gazetted officer, warrant-officer or petty officer, as the case may be, and to be the superior officer of any officer mentioned after him in any of the clauses aforesaid, and of any person subject to this Act who is not mentioned in any of those clauses.

3. (1) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

(a) cause to be read and explained to him the rules of the service,

(b) administer to him an oath of allegiance, and

(c) cause him to sign a roll.

(2) The rules, oath and roll shall be in prescribed forms.

4. In addition to any other rules which may be made under this Act, the Governor-General in Council may, by notification in the Gazette of India, make rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

CHAPTER II.

OFFENCES AND PUNISHMENTS.

Misconduct in the Presence of the Enemy.

Misconduct of commanding officer in action. 5. If a commanding officer—

(i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or

The Indian Marine Act, 1887.
(Chapter II.—Offences and Punishments.—Sections 6-15.)

- (ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or,
(iii) when capable of making a successful defence, surrenders his vessel to the enemy, or
(iv) in time of action improperly withdraws from the fight,
he shall,—
(a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
(b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Not pursuing the enemy or not assisting a friend in view.

6. If any officer subject to this Act—

- (i) forbears to pursue the chase of any enemy beaten or flying, or
(ii) does not relieve and assist a known friend in view to the utmost of his power, or
(iii) improperly forsakes his station,
he shall—
(a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
(b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Delaying or discouraging action or service, or deserting post or sleeping on watch.

7. If any person subject to this Act—

- (i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or
(ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch,
he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Misconduct of subordinate officers and men in action.

8. If any person subject to this Act, other than a commanding officer, does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
(b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Communications with the Enemy.

Corresponding, &c., with the enemy.

9. If any person subject to this Act—

- (i) treacherously holds correspondence with or gives intelligence to the enemy, or

(ii) fails to make known to the proper authorities any information which he may have received from the enemy, or

(iii) relieves the enemy with any supplies,
he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Neglect of Duty.

11. If a person subject to this Act deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Mutiny.

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned; and

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

- (a) if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned;
(b) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
(c) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this Act, shall suffer death or such other punishment as is hereinafter mentioned; and all other persons subject to this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

14. A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

15. A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

The Indian Marine Act, 1887.
(Chapter II.—Offences and Punishments.—Sections 16-29.)

16. A person subject to this Act who wilfully
Concealing traitorous, mutinous or seditious practice, design or words. conceals any traitorous or mutinous practice or design, or any seditious or mutinous words spoken against

Her Majesty, or any practice, design or words tending to the hindrance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

17. A person subject to this Act who strikes
Striking or using violence to superior officer. or attempts to strike, or uses or attempts to use any violence against, his superior officer, being in the execution of his office, or otherwise, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Insubordination.

18. A person subject to this Act who wilfully
Disobedience or using threatening language to superior officer. disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with contempt, to his superior officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Desertion and Absence without Leave.

19. A person subject to this Act who—

- (i) absents himself from his vessel or from the place where his duty requires him to be, with the intention of not returning to that vessel or place; or
- (ii) at any time and under any circumstances, when absent from his vessel or place of duty, does any act which shows that he has an intention of not returning to that vessel or place;

shall be deemed to have deserted, and shall suffer penal servitude or such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, bounty, salvage, prize-money and allowances which may have been earned by him, and all annuities, pensions, gratuities, medals and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor-General in Council.

20. A person subject to this Act who endeavours to seduce any other
Inducing any person to desert. person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

21. A person subject to this Act who, without
Breaking out of vessel. being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned.

22. A person subject to this Act who, without
Absence without leave. being guilty of desertion or of improperly leaving his vessel or place of duty, is absent without leave

shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require.

Miscellaneous Offences.

23. A person subject to this Act who is guilty
Drunkeness on boardship or on duty. of any drunkenness on boardship or on duty, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

24. An officer subject to this Act who
Cruelty or misconduct by officer. is guilty of cruelty, or of any scandalous or fraudulent conduct, or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

25. A person subject to this Act who designedly or negligently, or by any
Suffering vessel to be lost or imperilled. default, loses, strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

26. An officer in command of an Indian
Unlawful taking of goods on board. Marine vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant or on board any vessel, which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Government or his superior officer, shall be dismissed from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

27. A person subject to this Act who wastefully expends, embezzles or
Embezzling public stores. fraudulently buys, sells or receives any ammunition, provisions or other public stores, or knowingly permits any such wasteful expenditure, embezzlement or fraudulent purchase, sale or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

28. A person subject to this Act who unlawfully sets fire to any dock-yard, victualling yard, steam-factory yard, arsenal, magazine, building or stores, or to any ship, boat or other craft or furniture thereunto belonging, not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

29. A person subject to this Act who knowingly makes or signs a false
Making false documents. muster, or record or other official document, or who commands, counsels or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall

The Indian Marine Act, 1887.
(Chapter II.—Offences and Punishments.—Sections 30-38.)

be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

30. A person subject to this Act who wilfully does any act or wilfully disobeys any order, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity or to delay his cure, or who feigns any disease, infirmity or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

31. A person subject to this Act who has any cause of complaint, either upon the ground of the unwholesomeness of the victuals or upon any other ground, shall quietly make the same known to his commanding officer, and that officer shall inquire into the complaint and shall, as far as he is able, cause the same to be presently remedied, or shall report the case to the Director of Marine; and any person subject to this Act who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned.

32. A person subject to this Act who is guilty of any act, disorder or neglect, to the prejudice of good order and discipline, not otherwise specified, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Provided that if such act, disorder or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which may exceed seven years, the person guilty thereof shall not be tried under this Act as for an offence punishable under this section.

33. A person subject to this Act who does not use his utmost exertion to detect, arrest and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

34. A person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses or neglects to attend to give his evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt.

35. A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer imprisonment for a term which may extend to seven years.

Offences punishable by Ordinary Law.

36. If a person subject to this Act is guilty of any criminal offence which is committed in British India

would be punishable by the law of British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India:

Provided that, except as authorised by the Indian Marine Service Act, 1884, and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy.

Punishments.

37. (1) The following punishments may be inflicted under this Act:

- (a) death;
- (b) penal servitude;
- (c) dismissal with disgrace from the Indian Marine Service;
- (d) imprisonment;
- (e) dismissal from the Indian Marine Service;
- (f) loss of seniority as an officer for a specified time or otherwise;
- (g) dismissal from the vessel to which the offender belongs;
- (h) severe reprimand, or reprimand;
- (i) disrating a warrant-officer or petty officer or any other person below that rank;
- (j) forfeiture of pay, bounty, salvage, prize-money and allowance earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs.

(2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

38. The following regulations shall apply to the infliction of punishments:

(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years.

(2) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years, or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude.

(3) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

(4) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity.